



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

***** Attorney Work Product/Attorney-Client Communication - May Be FOIA Exempt *****

Scott Mandirola, Director
Division of Water and Waste Management
West Virginia Department of Environmental Protection
601 57th Street, SE
Charleston, WV 25304

Dear Mr. Mandirola:

Thank you for your May 8, 2014 e-mail requesting a response from the U.S. Environmental Protection Agency Region III (EPA) to two questions regarding the chemical, 4-methylcyclohexanemethanol (MCHM) that was released from Freedom Industries, Inc. in Charleston, WV in January 2014. These questions were:

1. Does USEPA consider Crude MCHM to be a hazardous waste when discarded?
2. Does USEPA consider remedial waste (contaminated debris and waste water) containing Crude MCHM to be a hazardous waste when discarded?

Regarding your first question, EPA does not consider Crude MCHM to be a hazardous waste regulated by RCRA when discarded. Under EPA regulations a chemical product being appropriately stored in a tank prior to its intended use is not a solid waste, and, therefore, not a hazardous waste. However, once that chemical product leaks from its storage tank onto the ground, or is otherwise discarded, it becomes a solid waste, and, possibly a hazardous waste. Solid wastes are defined as hazardous by EPA if they are specifically named on one of four lists of hazardous wastes located in Subpart D of 40 C.F.R. Part 261 (listed wastes) or if they exhibit one of four characteristics described in Subpart C of 40 C.F.R. Part 261 (characteristic wastes).

If the Crude MCHM was being appropriately stored as a product in a tank at the Freedom facility, it was not a solid waste and therefore not a hazardous waste under EPA's RCRA regulations. Further, although the Crude MCHM that was spilled at the Freedom facility was a solid waste under EPA's RCRA regulations, it was not a hazardous waste because Crude MCHM is not a listed waste under Subpart D of Part 261 or a characteristic waste under Subpart C of Part 261.

Regarding your second question, EPA cannot provide an answer to the question of whether it considers remedial waste containing Crude MCHM to be a hazardous waste when discarded. As stated above, Crude MCHM, by itself, is not a RCRA regulated hazardous waste when spilled or discarded. To



determine if remedial waste containing MCHM is a hazardous waste, analysis would have to be performed on the remedial waste.

Please contact me at 215-814-3127 if you have any further questions.

Sincerely,

John A. Armstead, Director
Land and Chemicals Division (3LC00)

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